

106TH CONGRESS  
2D SESSION

# S. 2089

To amend the Foreign Intelligence Surveillance Act of 1978 to modify procedures relating to orders for surveillance and searches for foreign intelligence purposes, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 24, 2000

Mr. SPECTER (for himself, Mr. TORRICELLI, Mr. THURMOND, Mr. BIDEN, Mr. GRASSLEY, Mr. FEINGOLD, Mr. HELMS, Mr. SCHUMER, Mr. SESSIONS, and Mr. LEAHY) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

MAY 23, 2000

Reported by Mr. HATCH, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

MAY 23, 2000

Referred to the Select Committee on Intelligence, pursuant to section 3(b) of Senate Resolution 400, 94th Congress, for a period not to exceed 30 days of session

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## A BILL

To amend the Foreign Intelligence Surveillance Act of 1978 to modify procedures relating to orders for surveillance and searches for foreign intelligence purposes, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Counterintelligence Re-  
3 form Act of 2000”.

4 **SEC. 2. CIRCUMSTANCES ESTABLISHING PROBABLE CAUSE**  
5 **FOR ISSUANCE OF ORDERS FOR ELECTRONIC**  
6 **SURVEILLANCE UNDER FOREIGN INTEL-**  
7 **LIGENCE SURVEILLANCE ACT OF 1978.**

8 (a) **PAST ACTIVITIES.**—Section 105 of the Foreign  
9 Intelligence Surveillance Act of 1978 (50 U.S.C. 1805) is  
10 amended—

11 (1) by redesignating subsections (b), (c), (d),  
12 (e), (f), and (g) as subsections (c), (d), (e), (f), (g),  
13 and (h), respectively; and

14 (2) by inserting after subsection (a) the fol-  
15 lowing new subsection (b):

16 “(b) In determining whether or not probable cause  
17 exists for purposes of an order under subsection (a)(3),  
18 a judge may consider past activities of the target, as well  
19 as facts and circumstances relating to current or future  
20 activities of the target.”.

21 (b) **CONFORMING AMENDMENT.**—Subsection (d) of  
22 that section, as redesignated by subsection (a)(1) of this  
23 section, is amended by striking “subsection (b)(1)” and  
24 inserting “subsection (c)(1)”.

1 **SEC. 3. ORDERS FOR ELECTRONIC SURVEILLANCE UNDER**  
 2 **FOREIGN INTELLIGENCE SURVEILLANCE ACT**  
 3 **OF 1978.**

4 (a) DESCRIPTION OF INTELLIGENCE OR LAW-EN-  
 5 FORCEMENT ACTIVITIES OF CERTAIN TARGETS.—Section  
 6 104 of the Foreign Intelligence Surveillance Act of 1978  
 7 (50 U.S.C. 1804) is amended—

8 (1) in subsection (a)—

9 (A) by redesignating paragraphs (8), (9),  
 10 (10), and (11) as paragraphs (9), (10), (11),  
 11 and (12), respectively; and

12 (B) by inserting after paragraph (7) the  
 13 following new paragraph (8):

14 “(8) in the case of an application covering a  
 15 target described in section 101(b)(2), a detailed de-  
 16 scription of—

17 “(A) any current relationship between the  
 18 target and any Federal intelligence, intelligence-  
 19 related, or law enforcement activity; and

20 “(B) any prior relationship between the  
 21 target and any Federal intelligence, intelligence-  
 22 related, or law enforcement activity that is rel-  
 23 evant to a determination of probable cause  
 24 under section 105;” and

25 (2) in subsection (b), by striking “(8), and  
 26 (11)” and inserting “(9), and (12)”.

1       (b) ADDITIONAL REQUIREMENTS REGARDING CER-  
 2 TAIN APPLICATIONS.—That section is further amended by  
 3 adding at the end the following new subsection:

4       “(c)(1)(A) Upon written request of the Director of  
 5 the Federal Bureau of Investigation, the Secretary of De-  
 6 fense, the Secretary of State, or the Director of Central  
 7 Intelligence, the Attorney General shall personally review  
 8 under subsection (a) an application under that subsection  
 9 for a target described in section 101(b)(2).

10       “(B) An official referred to in subparagraph (A) may  
 11 not delegate the authority to make a request referred to  
 12 in that subparagraph.

13       “(2)(A) If as a result of a request under paragraph  
 14 (1) the Attorney General determines not to approve an  
 15 application under the second sentence of subsection (a) for  
 16 purposes of making the application under this section, the  
 17 Attorney General shall provide written notice of the deter-  
 18 mination to the official making the request for the review  
 19 of the application under that paragraph. The Attorney  
 20 General may not delegate the responsibility set forth in  
 21 the preceding sentence.

22       “(B) Notice with respect to an application under sub-  
 23 paragraph (A) shall set forth the modifications, if any, of  
 24 the application that are necessary in order for the Attor-  
 25 ney General to approve the application under the second

1 sentence of subsection (a) for purposes of making the ap-  
 2 plication under this section.

3 “(C) Upon review of any modifications of an applica-  
 4 tion set forth under subparagraph (B), the official notified  
 5 of the modifications under this paragraph shall modify the  
 6 application if such official determines that such modifica-  
 7 tion is warranted. Such official shall supervise the making  
 8 of any modification under this subparagraph. Such official  
 9 may not delegate the responsibility set forth in the pre-  
 10 ceding sentence.”.

11 **SEC. 4. ORDERS FOR PHYSICAL SEARCHES UNDER FOR-**  
 12 **EIGN INTELLIGENCE SURVEILLANCE ACT OF**  
 13 **1978.**

14 (a) DESCRIPTION OF INTELLIGENCE OR LAW-EN-  
 15 FORCEMENT ACTIVITIES OF CERTAIN TARGETS.—Sub-  
 16 section (a) of section 303 of the Foreign Intelligence Sur-  
 17 veillance Act of 1978 (50 U.S.C. 1823) is amended—

18 (1) by redesignating paragraphs (8) and (9) as  
 19 paragraphs (9) and (10), respectively; and

20 (2) by inserting after paragraph (7) the fol-  
 21 lowing new paragraph (8):

22 “(8) in the case of an application covering a  
 23 target described in section 101(b)(2), a detailed de-  
 24 scription of—

1           ~~“(A) any current relationship between the~~  
 2           ~~target and any Federal intelligence, intelligence-~~  
 3           ~~related, or law enforcement activity; and~~

4           ~~“(B) any prior relationship between the~~  
 5           ~~target and any Federal intelligence, intelligence-~~  
 6           ~~related, or law enforcement activity that is rel-~~  
 7           ~~evant to a determination of probable cause~~  
 8           ~~under section 304;”.~~

9           ~~(b) ADDITIONAL REQUIREMENTS REGARDING CER-~~  
 10       ~~TAIN APPLICATIONS.—That section is further amended by~~  
 11       ~~adding at the end the following new subsection:~~

12           ~~“(d)(1)(A) Upon written request of the Director of~~  
 13       ~~the Federal Bureau of Investigation, the Secretary of De-~~  
 14       ~~fense, the Secretary of State, or the Director of Central~~  
 15       ~~Intelligence, the Attorney General shall personally review~~  
 16       ~~under subsection (a) an application under that subsection~~  
 17       ~~for a target described in section 101(b)(2).~~

18           ~~“(B) An official referred to in subparagraph (A) may~~  
 19       ~~not delegate the authority to make a request referred to~~  
 20       ~~in that subparagraph.~~

21           ~~“(2)(A) If as a result of a request under paragraph~~  
 22       ~~(1) the Attorney General determines not to approve an~~  
 23       ~~application under the second sentence of subsection (a) for~~  
 24       ~~purposes of making the application under this section, the~~  
 25       ~~Attorney General shall provide written notice of the deter-~~

mination to the official making the request for the review of the application under that paragraph. The Attorney General may not delegate the responsibility set forth in the preceding sentence.

“(B) Notice with respect to an application under subparagraph (A) shall set forth the modifications, if any, of the application that are necessary in order for the Attorney General to approve the application under the second sentence of subsection (a) for purposes of making the application under this section.

“(C) Upon review of any modifications of an application set forth under subparagraph (B), the official notified of the modifications under this paragraph shall modify the application if such official determines that such modification is warranted. Such official shall supervise the making of any modification under this subparagraph. Such official may not delegate the responsibility set forth in the preceding sentence.”.

**SEC. 5. DISCLOSURE FOR LAW ENFORCEMENT PURPOSES**  
**OF INFORMATION ACQUIRED UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.**

(a) REGULATIONS RELATING TO DISCLOSURE.—Not later than 180 days after the date of the enactment of

1 this Act, the Attorney General shall prescribe in regula-  
2 tions the following:

3       ~~(1) The circumstances under which information~~  
4       ~~acquired pursuant to title I of the Foreign Intel-~~  
5       ~~ligence Surveillance Act of 1978 (50 U.S.C. 1801 et~~  
6       ~~seq.) shall be disclosed for law enforcement purposes~~  
7       ~~under section 106(b) of that Act (50 U.S.C.~~  
8       ~~1806(b)).~~

9       ~~(2) The circumstances under which information~~  
10       ~~acquired pursuant to title III of the Foreign Intel-~~  
11       ~~ligence Surveillance Act of 1978 (50 U.S.C. 1821 et~~  
12       ~~seq.) shall be disclosed for law enforcement purposes~~  
13       ~~under section 305(e) of that Act (50 U.S.C.~~  
14       ~~1825(e)).~~

15       ~~(3) The circumstances under which information~~  
16       ~~acquired pursuant to title IV of the Foreign Intel-~~  
17       ~~ligence Surveillance Act of 1978 (50 U.S.C. 1841 et~~  
18       ~~seq.) shall be disclosed for law enforcement purposes~~  
19       ~~under section 405(b) of that Act (50 U.S.C.~~  
20       ~~1845(b)).~~

21       ~~(b) SUBMITTAL TO CONGRESS.—The Attorney Gen-~~  
22       ~~eral shall submit to the Committees on the Judiciary of~~  
23       ~~the Senate and House of Representatives the regulations~~  
24       ~~prescribed by the Attorney General under subsection (a).~~



1 **SEC. 6. COORDINATION OF COUNTERINTELLIGENCE WITH**  
 2 **THE FEDERAL BUREAU OF INVESTIGATION.**

3 (a) TREATMENT OF CERTAIN SUBJECTS OF INVES-  
 4 TIGATION.—Subsection (c) of section 811 of the Intel-  
 5 ligence Authorization Act for Fiscal Year 1995 (50 U.S.C.  
 6 402a) is amended—

7 (1) in paragraphs (1) and (2), by striking  
 8 “paragraph (3)” and inserting “paragraph (5)”;

9 (2) by redesignating paragraphs (3), (4), (5),  
 10 and (6) as paragraphs (5), (6), (7), and (9), respec-  
 11 tively;

12 (3) by inserting after paragraph (2) the fol-  
 13 lowing new paragraph (3):

14 “(3)(A) The Director of the Federal Bureau of Inves-  
 15 tigation shall notify in writing the head of the department  
 16 or agency concerned of a finding by the Federal Bureau  
 17 of Investigation that the subject of an investigation under  
 18 paragraph (1) should be left in place for investigative pur-  
 19 poses.

20 “(B) Not later than 30 days after receiving written  
 21 notification under subparagraph (A), the head of the de-  
 22 partment or agency so notified shall submit to the Direc-  
 23 tor a plan to minimize the unauthorized disclosure of clas-  
 24 sified information by the subject concerned.

25 “(C) A plan under this paragraph may be modified  
 26 if the Director and the head of the department or agency

1 concerned jointly determine that the modification is war-  
 2 ranted. A modification under this subparagraph may in-  
 3 clude a decision that the subject of an investigation no  
 4 longer be left in place for investigative purposes.

5 “(D) A disagreement regarding an element of a plan  
 6 under subparagraph (A), including a proposed modifica-  
 7 tion of the plan under subparagraph (C), shall be resolved  
 8 by the Board.”; and

9 (4) in paragraph (5), as so redesignated, by  
 10 striking “paragraph (1) or (2)” and inserting “para-  
 11 graph (1), (2), or (3)”.

12 (b) ~~TIMELY PROVISION OF INFORMATION AND CON-~~  
 13 ~~SULTATION ON ESPIONAGE INVESTIGATIONS.~~—Paragraph  
 14 (2) of that subsection is further amended—

15 (1) by inserting “in a timely manner” after  
 16 “through appropriate channels”; and

17 (2) by inserting “in a timely manner” after  
 18 “are consulted”.

19 (c) ~~INTERFERENCE WITH FULL FIELD ESPIONAGE~~  
 20 ~~INVESTIGATIONS.~~—That subsection is further amended by  
 21 inserting after paragraph (3), as amended by subsection  
 22 (a) of this section, the following new paragraph (4):

23 “(4)(A) The Federal Bureau of Investigation shall  
 24 notify appropriate officials within the executive branch, in-  
 25 cluding the head of the department or agency concerned,

1 of the commencement of a full field espionage investiga-  
2 tion with respect to an employee within the executive  
3 branch.

4 “(B)(i) A department or agency may not conduct a  
5 polygraph examination, interrogate, or otherwise take any  
6 action that is likely to alert an employee covered by a no-  
7 tice under subparagraph (A) of an investigation described  
8 in that subparagraph without prior coordination with the  
9 Federal Bureau of Investigation.

10 “(ii) Any examination, interrogation, or other action  
11 taken under clause (i) shall be taken in consultation with  
12 the Federal Bureau of Investigation.”.

13 (d) COORDINATION OF INFORMATION ON ESPIONAGE  
14 INVESTIGATIONS.—That subsection is further amended by  
15 inserting after paragraph (7), as redesignated by sub-  
16 section (a)(2) of this section, the following new paragraph  
17 (8):

18 “(8) The Director of the Federal Bureau of Inves-  
19 tigation shall be responsible for coordinating all informa-  
20 tion relating to espionage investigations, including infor-  
21 mation on any prior or current relationship between the  
22 subjects of such investigations and any Federal intel-  
23 ligence or intelligence-related activity, within the intel-  
24 ligence community and within and among Federal law en-  
25 forcement agencies.”.

1       (e) REQUESTS FOR TECHNICAL ASSISTANCE.—That  
 2 section is further amended by adding at the end the fol-  
 3 lowing new subsection (d):

4       “(d) REQUESTS FOR TECHNICAL ASSISTANCE.—The  
 5 Director of the Federal Bureau of Investigation and the  
 6 Director of the National Security Agency shall establish  
 7 procedures to ensure the timely evaluation and determina-  
 8 tions regarding requests from the Federal Bureau of In-  
 9 vestigation for technical assistance in counterintelligence  
 10 activities covered by this section.”.

11 **SEC. 7. SEVERABILITY.**

12       If any provision of this Act (including an amendment  
 13 made by this Act), or the application thereof, to any per-  
 14 son or circumstance, is held invalid, the remainder of this  
 15 Act (including the amendments made by this Act), and  
 16 the application thereof, to other persons or circumstances  
 17 shall not be affected thereby.

18 **SECTION 1. SHORT TITLE.**

19       *This Act may be cited as the “Counterintelligence Re-*  
 20 *form Act of 2000”.*

21 **SEC. 2. ORDERS FOR ELECTRONIC SURVEILLANCE UNDER**  
 22 **THE FOREIGN INTELLIGENCE SURVEILLANCE**  
 23 **ACT OF 1978.**

24       (a) DESCRIPTION OF INTELLIGENCE OR LAW-EN-  
 25 FORCEMENT ACTIVITIES OF CERTAIN TARGETS.—Section

1 *104 of the Foreign Intelligence Surveillance Act of 1978 (50*  
 2 *U.S.C. 1804) is amended—*

3 *(1) in subsection (a)—*

4 *(A) by redesignating paragraphs (8), (9),*  
 5 *(10), and (11) as paragraphs (9), (10), (11), and*  
 6 *(12), respectively; and*

7 *(B) by inserting after paragraph (7) the fol-*  
 8 *lowing new paragraph (8):*

9 *“(8) in the case of an application covering a tar-*  
 10 *get described in section 101(b)(2), a detailed descrip-*  
 11 *tion of—*

12 *“(A) any current relationship between the*  
 13 *target and any Federal intelligence, intelligence-*  
 14 *related, or law enforcement activity; and*

15 *“(B) any prior relationship between the tar-*  
 16 *get and any Federal intelligence, intelligence-re-*  
 17 *lated, or law enforcement activity that is rel-*  
 18 *evant to a determination of probable cause under*  
 19 *section 105;”;* and

20 *(2) in subsection (b), by striking “(8), and (11)”*  
 21 *and inserting “(9), and (12)”.*

22 *(b) ADDITIONAL REQUIREMENTS REGARDING CERTAIN*  
 23 *APPLICATIONS.—That section is further amended by adding*  
 24 *at the end the following new subsection:*

1       “(e)(1)(A) Upon written request of the Director of the  
2 Federal Bureau of Investigation, the Secretary of Defense,  
3 the Secretary of State, or the Director of Central Intel-  
4 ligence, the Attorney General shall personally review under  
5 subsection (a) an application under that subsection for a  
6 target described in section 101(b)(2).

7       “(B) Except when disabled or otherwise unavailable  
8 to make a request referred to in subparagraph (A), an offi-  
9 cial referred to in that subparagraph may not delegate the  
10 authority to make a request referred to in that subpara-  
11 graph.

12       “(2)(A) If as a result of a request under paragraph  
13 (1) the Attorney General determines not to approve an ap-  
14 plication under the second sentence of subsection (a) for  
15 purposes of making the application under this section, the  
16 Attorney General shall provide written notice of the deter-  
17 mination to the official making the request for the review  
18 of the application under that paragraph. Except when dis-  
19 abled or otherwise unavailable to make a determination  
20 under the preceding sentence, the Attorney General may not  
21 delegate the responsibility to make a determination under  
22 that sentence.

23       “(B) Notice with respect to an application under sub-  
24 paragraph (A) shall set forth the modifications, if any, of  
25 the application that are necessary in order for the Attorney

1 *General to approve the application under the second sen-*  
 2 *tence of subsection (a) for purposes of making the applica-*  
 3 *tion under this section.*

4       “(C) Upon review of any modifications of an applica-  
 5 tion set forth under subparagraph (B), the official notified  
 6 of the modifications under this paragraph shall modify the  
 7 application if such official determines that such modifica-  
 8 tion is warranted. Such official shall supervise the making  
 9 of any modification under this subparagraph. Except when  
 10 disabled or otherwise unavailable to supervise the making  
 11 of any modification under the preceding sentence, such offi-  
 12 cial may not delegate the responsibility to supervise the  
 13 making of any modification under that preceding sen-  
 14 tence.”.

15       (c) *PROBABLE CAUSE.*—Section 105 of that Act (50  
 16 U.S.C. 1805) is amended—

17               (1) by redesignating subsections (b), (c), (d), (e),  
 18               (f), and (g) as subsections (c), (d), (e), (f), (g), and  
 19               (h), respectively;

20               (2) by inserting after subsection (a) the following  
 21               new subsection (b):

22       “(b) In determining whether or not probable cause ex-  
 23 ists for purposes of an order under subsection (a)(3), a judge  
 24 may consider past activities of the target, as well as facts

1 *and circumstances relating to current or future activities*  
 2 *of the target.”; and*

3 *(3) in subsection (d), as redesignated by para-*  
 4 *graph (1), by striking “subsection (b)(1)” and insert-*  
 5 *ing “subsection (c)(1)”.*

6 **SEC. 3. ORDERS FOR PHYSICAL SEARCHES UNDER THE**  
 7 **FOREIGN INTELLIGENCE SURVEILLANCE ACT**  
 8 **OF 1978.**

9 *(a) DESCRIPTION OF INTELLIGENCE OR LAW-EN-*  
 10 *FORCEMENT ACTIVITIES OF CERTAIN TARGETS.—Sub-*  
 11 *section (a) of section 303 of the Foreign Intelligence Surveil-*  
 12 *lance Act of 1978 (50 U.S.C. 1823) is amended—*

13 *(1) by redesignating paragraphs (8) and (9) as*  
 14 *paragraphs (9) and (10), respectively; and*

15 *(2) by inserting after paragraph (7) the fol-*  
 16 *lowing new paragraph (8):*

17 *“(8) in the case of an application covering a tar-*  
 18 *get described in section 101(b)(2), a detailed descrip-*  
 19 *tion of—*

20 *“(A) any current relationship between the*  
 21 *target and any Federal intelligence, intelligence-*  
 22 *related, or law enforcement activity; and*

23 *“(B) any prior relationship between the tar-*  
 24 *get and any Federal intelligence, intelligence-re-*  
 25 *lated, or law enforcement activity that is rel-*



1            *evant to a determination of probable cause under*  
 2            *section 304;”.*

3            *(b) ADDITIONAL REQUIREMENTS REGARDING CERTAIN*  
 4            *APPLICATIONS.—That section is further amended by adding*  
 5            *at the end the following new subsection:*

6            *“(d)(1)(A) Upon written request of the Director of the*  
 7            *Federal Bureau of Investigation, the Secretary of Defense,*  
 8            *the Secretary of State, or the Director of Central Intel-*  
 9            *ligence, the Attorney General shall personally review under*  
 10           *subsection (a) an application under that subsection for a*  
 11           *target described in section 101(b)(2).*

12           *“(B) Except when disabled or otherwise unavailable*  
 13           *to make a request referred to in subparagraph (A), an offi-*  
 14           *cial referred to in that subparagraph may not delegate the*  
 15           *authority to make a request referred to in that subpara-*  
 16           *graph.*

17           *“(2)(A) If as a result of a request under paragraph*  
 18           *(1) the Attorney General determines not to approve an ap-*  
 19           *plication under the second sentence of subsection (a) for*  
 20           *purposes of making the application under this section, the*  
 21           *Attorney General shall provide written notice of the deter-*  
 22           *mination to the official making the request for the review*  
 23           *of the application under that paragraph. Except when dis-*  
 24           *abled or otherwise unavailable to make a determination*  
 25           *under the preceding sentence, the Attorney General may not*

1 *delegate the responsibility to make a determination under*  
 2 *that sentence.*

3       “(B) Notice with respect to an application under sub-  
 4 paragraph (A) shall set forth the modifications, if any, of  
 5 the application that are necessary in order for the Attorney  
 6 General to approve the application under the second sen-  
 7 tence of subsection (a) for purposes of making the applica-  
 8 tion under this section.

9       “(C) Upon review of any modifications of an applica-  
 10 tion set forth under subparagraph (B), the official notified  
 11 of the modifications under this paragraph shall modify the  
 12 application if such official determines that such modifica-  
 13 tion is warranted. Such official shall supervise the making  
 14 of any modification under this subparagraph. Except when  
 15 disabled or otherwise unavailable to supervise the making  
 16 of any modification under the preceding sentence, such offi-  
 17 cial may not delegate the responsibility to supervise the  
 18 making of any modification under that preceding sen-  
 19 tence.”.

20       (c) *PROBABLE CAUSE*.—Section 304 of that Act (50  
 21 U.S.C. 1824) is amended—

22               (1) by redesignating subsections (b), (c), (d), and  
 23               (e) as subsections (c), (d), (e), and (f), respectively;  
 24               and

1           (2) by inserting after subsection (a) the following  
2           new subsection (b):

3           “(b) In determining whether or not probable cause ex-  
4           ists for purposes of an order under subsection (a)(3), a judge  
5           may consider past activities of the target, as well as facts  
6           and circumstances relating to current or future activities  
7           of the target.”.

8   **SEC. 4. DISCLOSURE FOR LAW ENFORCEMENT PURPOSES**  
9                           **OF INFORMATION ACQUIRED UNDER THE**  
10                          **FOREIGN INTELLIGENCE SURVEILLANCE ACT**  
11                          **OF 1978.**

12           (a) *REGULATIONS RELATING TO DISCLOSURE.*—Not  
13           later than 180 days after the date of the enactment of this  
14           Act, the Attorney General shall prescribe in regulations the  
15           following:

16           (1) *The circumstances under which information*  
17           *acquired pursuant to title I of the Foreign Intel-*  
18           *ligence Surveillance Act of 1978 (50 U.S.C. 1801 et*  
19           *seq.) shall be disclosed for law enforcement purposes*  
20           *under section 106(b) of that Act (50 U.S.C. 1806(b)).*

21           (2) *The circumstances under which information*  
22           *acquired pursuant to title III of the Foreign Intel-*  
23           *ligence Surveillance Act of 1978 (50 U.S.C. 1821 et*  
24           *seq.) shall be disclosed for law enforcement purposes*  
25           *under section 305(c) of that Act (50 U.S.C. 1825(c)).*

1           (3) *The circumstances under which information*  
 2           *acquired pursuant to title IV of the Foreign Intel-*  
 3           *ligence Surveillance Act of 1978 (50 U.S.C. 1841 et*  
 4           *seq.) shall be disclosed for law enforcement purposes*  
 5           *under section 405(b) of that Act (50 U.S.C. 1845(b)).*

6           (b) *SUBMITTAL TO CONGRESS.—The Attorney General*  
 7           *shall submit to the Committees on the Judiciary of the Sen-*  
 8           *ate and House of Representatives the regulations prescribed*  
 9           *by the Attorney General under subsection (a).*

10   **SEC. 5. COORDINATION OF COUNTERINTELLIGENCE WITH**  
 11           **THE FEDERAL BUREAU OF INVESTIGATION.**

12           (a) *TREATMENT OF CERTAIN SUBJECTS OF INVES-*  
 13           *TIGATION.—Subsection (c) of section 811 of the Intelligence*  
 14           *Authorization Act for Fiscal Year 1995 (50 U.S.C. 402a)*  
 15           *is amended—*

16                   (1) *in paragraphs (1) and (2), by striking*  
 17                   *“paragraph (3)” and inserting “paragraph (5)”;*

18                   (2) *by redesignating paragraphs (3), (4), (5),*  
 19                   *and (6) as paragraphs (5), (6), (7), and (9), respec-*  
 20                   *tively;*

21                   (3) *by inserting after paragraph (2) the fol-*  
 22                   *lowing new paragraph (3):*

23                   “(3)(A) *The Director of the Federal Bureau of Inves-*  
 24                   *tigation shall notify in writing the head of the department*  
 25                   *or agency concerned of a finding by the Federal Bureau*

1 of Investigation that the subject of an investigation under  
 2 paragraph (1) should be left in place for investigative pur-  
 3 poses.

4 “(B) Not later than 30 days after receiving written  
 5 notification under subparagraph (A), the head of the de-  
 6 partment or agency so notified shall submit to the Director  
 7 a plan to minimize the unauthorized disclosure of classified  
 8 information by the subject concerned.

9 “(C) A plan under this paragraph may be modified  
 10 if the Director and the head of the department or agency  
 11 concerned jointly determine that the modification is war-  
 12 ranted. A modification under this subparagraph may in-  
 13 clude a decision that the subject of an investigation no  
 14 longer be left in place for investigative purposes.

15 “(D) A disagreement regarding an element of a plan  
 16 under subparagraph (A), including a proposed modifica-  
 17 tion of the plan under subparagraph (C), shall be resolved  
 18 by the Board.”; and

19 (4) in paragraph (5), as so redesignated, by  
 20 striking “paragraph (1) or (2)” and inserting “para-  
 21 graph (1), (2), or (3)”.

22 (b) *TIMELY PROVISION OF INFORMATION AND CON-*  
 23 *SULTATION ON ESPIONAGE INVESTIGATIONS.*—Paragraph  
 24 (2) of that subsection is further amended—

1           (1) by inserting “in a timely manner” after  
2           “through appropriate channels”; and

3           (2) by inserting “in a timely manner” after “are  
4           consulted”.

5           (c) *INTERFERENCE WITH FULL FIELD ESPIONAGE IN-*  
6 *VESTIGATIONS.*—That subsection is further amended by in-  
7 serting after paragraph (3), as amended by subsection (a)  
8 of this section, the following new paragraph (4):

9           “(4)(A) *The Federal Bureau of Investigation shall no-*  
10 *tify appropriate officials within the executive branch, in-*  
11 *cluding the head of the department or agency concerned,*  
12 *of the commencement of a full field espionage investigation*  
13 *with respect to an employee within the executive branch.*

14           “(B)(i) *A department or agency may not conduct a*  
15 *polygraph examination, interrogate, or otherwise take any*  
16 *action that is likely to alert an employee covered by a notice*  
17 *under subparagraph (A) of an investigation described in*  
18 *that subparagraph without prior coordination with the*  
19 *Federal Bureau of Investigation.*

20           “(ii) *Any examination, interrogation, or other action*  
21 *taken under clause (i) shall be taken in consultation with*  
22 *the Federal Bureau of Investigation.*”.

23           (d) *COORDINATION OF INFORMATION ON ESPIONAGE*  
24 *INVESTIGATIONS.*—That subsection is further amended by

1 *inserting after paragraph (7), as redesignated by subsection*  
 2 *(a)(2) of this section, the following new paragraph (8):*

3       “(8) *The Director of the Federal Bureau of Investiga-*  
 4 *tion shall be responsible for coordinating all information*  
 5 *relating to espionage investigations, including information*  
 6 *on any prior or current relationship between the subjects*  
 7 *of such investigations and any Federal intelligence or intel-*  
 8 *ligence-related activity, within the intelligence community*  
 9 *and within and among Federal law enforcement agencies.”.*

10       *(e) REQUESTS FOR TECHNICAL ASSISTANCE.—That*  
 11 *section is further amended by adding at the end the fol-*  
 12 *lowing new subsection (d):*

13       “(d) *REQUESTS FOR TECHNICAL ASSISTANCE.—The*  
 14 *Director of the Federal Bureau of Investigation and the Di-*  
 15 *rector of the National Security Agency shall establish proce-*  
 16 *dures to ensure the timely evaluation and determinations*  
 17 *regarding requests from the Federal Bureau of Investigation*  
 18 *for technical assistance in counterintelligence activities cov-*  
 19 *ered by this section.”.*

20       **SEC. 6. ENHANCING PROTECTION OF NATIONAL SECURITY**  
 21               **AT THE DEPARTMENT OF JUSTICE.**

22       *(a) AUTHORIZATION FOR INCREASED RESOURCES TO*  
 23 *FULFILL NATIONAL SECURITY MISSION OF THE DEPART-*  
 24 *MENT OF JUSTICE.—There are authorized to be appro-*  
 25 *priated to the Department of Justice for the activities of*

1 *the Office of Intelligence and Policy Review to help meet*  
 2 *the increased personnel demands to combat terrorism, proc-*  
 3 *ess applications to the Foreign Intelligence Surveillance*  
 4 *Court, participate effectively in counter-espionage inves-*  
 5 *tigations, provide policy analysis on national security*  
 6 *issues, and enhance secure computer and telecommuni-*  
 7 *cations facilities—*

8           (1) \$7,000,000 for fiscal year 2001;

9           (2) \$7,500,000 for fiscal year 2002; and

10          (3) \$8,000,000 for fiscal year 2003.

11          (b) *AVAILABILITY OF FUNDS.—Funds made available*  
 12 *pursuant to subsection (a), in any fiscal year, shall remain*  
 13 *available until expended.*

14          (c) *REPORT ON COORDINATING NATIONAL SECURITY*  
 15 *AND INTELLIGENCE FUNCTIONS WITHIN THE DEPARTMENT*  
 16 *OF JUSTICE.—The Attorney General shall report to the*  
 17 *Committees on the Judiciary of the Senate and the House*  
 18 *of Representatives within 120 days on actions that have*  
 19 *been or will be taken by the Department to—*

20           (1) *promote quick and efficient responses to na-*  
 21 *tional security issues;*

22           (2) *centralize a point-of-contact within the De-*  
 23 *partment on national security matters for external*  
 24 *entities and agencies; and*



1           (3) *coordinate the dissemination of intelligence*  
2           *information within the appropriate components of the*  
3           *Department and the formulation of policy on na-*  
4           *tional security issues.*

5 **SEC. 7. SEVERABILITY.**

6           *If any provision of this Act (including an amendment*  
7           *made by this Act), or the application thereof, to any person*  
8           *or circumstance, is held invalid, the remainder of this Act*  
9           *(including the amendments made by this Act), and the ap-*  
10          *plication thereof, to other persons or circumstances shall not*  
11          *be affected thereby.*

